

REMARKS

In the Office Action dated May 3, 2005, claims 1, 3, 5-6, 14, 16-17 and 38 are pending. Claims 1 and 38 are allowed. Claims 3, 5-6, 14 and 16-17 are rejected.

This Response addresses each of the Examiner's rejections. Applicants therefore respectfully submit that the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

Claim 6 is rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The Examiner alleges that the claim does not require the host cell to be isolated and, therefore, reads on cells in a host undergoing gene therapy. The Examiner previously recommended that the claim be amended to recite "An isolated host cell."

Applicants respectfully submit that the specification provides adequate teaching for those skilled in the art to use the subject nucleic acid molecules in a gene therapy procedure. However, in an effort to favorably advance prosecution, Applicants have amended claim 6 to recite "An isolated cell". Subject matter relating to gene therapy, e.g., as embodied in original claims 26-37, is canceled in response to the Restriction Requirement and will be pursued in a divisional application. As such, the rejection of claim 6 under 35 U.S.C. § 112, first paragraph, is overcome and withdrawal thereof is therefore respectfully requested.

Claims 3, 5-6, 14, 16 and 17 are rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enabling support. The Examiner alleges that the specification is not enabling for all nucleic acid molecules that hybridize to SEQ ID NO: 1.

Furthermore, claims 3, 5-6, 14 and 16-17 are also rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to satisfy the written description requirement. The Examiner

alleges that neither the specification nor the claims describe distinguishing structural features of the genus of nucleic acids as claimed.

Although Applicants respectfully disagree with the Examiner's rejections, Applicants have canceled claim independent claim 3 in an effort to favorably advance prosecution of the present application. Claims 5 and 14 have also been amended to delete the reference to claim 3. Applicants reserve the right to pursue the subject matter embodied in claim 3 in a continuation application.

In view of the amendments to the claims, the rejections of claims 3, 5-6, 14 and 16-17 based on the enablement requirement and the written description requirement, are overcome, and withdrawal thereof is respectfully requested.

New claims 40-41 are added and are directed to a nucleic acid molecule encoding a human OGF α r. The amino acid sequence of the human OGF α r is set forth in SEQ ID NO: 10. Support for claims 40-41 is found in the specification, e.g., on page 12, lines 8-32, and in original claim 1. No new matter is introduced.

As disclosed in the specification, the nucleic acid molecule as claimed in claims 40-41 encodes a human OGF α r protein, which binds OGF α r. Additional evidence that the claimed nucleic acid encodes a human protein that binds to OGF α r is also documented in the article, Zagon et al., *Brain Research Reviews* 38: 351-376 (2002) (attached herewith as **Exhibit A**). See, in particular, Figure 7 and page 363, right column, last paragraph.

As further described in the specification, an OGF α r nucleic acid can be employed to detect levels of OGF α r expression in a target tissue as the basis of diagnosis of any abnormality associated with OGF α r. See, e.g., page 22, line 14-21. An OGF α r nucleic acid can also be employed in a therapeutic regimen, as disclosed on page 27, lines 20-27. Alternatively, an OGF α r

nucleic acid can be employed to produce recombinant OGF α proteins, which in turn, can be employed to produce antibodies. OGF α antibodies can be used to detect levels of OGF α expression or to modulate cell proliferation, as disclosed in the specification. See, e.g., page 5, line 29 to page 6, line 2; and page 22, lines 14-21. Accordingly, the specification provides adequate teaching as to how to make and use the nucleic acid molecule as claimed.

In view of the foregoing amendments and remarks, it is firmly believed that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Xiaochun Zhu
Registration No. 56,311

Scully, Scott, Murphy & Presser
400 Garden City Plaza-STE 300
Garden City, New York 11530
(516) 742-4343

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Encl.: Exhibit A